

## REMARKS

In the Office Action mailed August 7, 2007, the Examiner noted that claims 3-5 and 8-11 were pending and rejected claims 3-5 and 8-11. Claims 3, 8 and 11 have been amended, no claims have been canceled, new claim 12 has been added; and, thus, in view of the foregoing claims 3-5 and 8-12 remain pending for reconsideration which is requested. No new matter is believed to have been added. The Examiner's rejections are respectfully traversed below.

## REJECTIONS

The Office Action, on page 2, rejected claims 3, 8 and 11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,392,769 (Ford).

Ford is related to an automatic level control circuit for optical system where feedback instabilities are eliminated by restricting operation to a single amplifier node at a time (see Ford, Abstract). The Office Action, on page 3, asserted that Ford discloses "when an optical signal component of a wavelength of the WDM optical signal is disconnected".

However, amended claim 3, for example, recites "detecting a disconnect fault...wherein **when an optical signal component of a wavelength of the WDM optical signal is disconnected based on a detected disconnect fault**, the feed-back circuit sets the attenuation amount of a variable attenuator assigned to the optical signal component to a predetermined fixed value", (claim 3, lines 19-30, emphasis is added) which is supported by the embodiments of the present invention on page 17 and figure 6 of the Application. Claims 8 and 11 have been amended to recite similar features as claim 3.

Nothing was cited or found in Ford that teaches or suggests the aforementioned features of claims 3, 8 and 11. Rather, Ford describes:

**to carefully optimize system performance it is necessary to determine the type of node utilized (i.e., 103, 104 and 105) at the various system node locations so as to be able to compensate for the various impairments which occur due to WDM channel add/drop reconfiguration, optical protection switching, incorrect power levels, crosstalk, self-phase and cross-phase modulation, etc. Moreover, while it is desirable to automate power level control at these nodes, control must be accomplished without causing the unstable and chaotic power level oscillations**

(see Ford, col. 4, lines 20-30, emphasis is added). Therefore, determining the type of node utilized to be able to compensate for the various impairments which occur due to WDM channel add/drop reconfiguration as described in Ford does not constitute "when an optical signal component of a wavelength...is disconnected based on a detected disconnect fault, the feed-

back circuit sets the attenuation amount of a variable attenuator assigned to the optical signal component to a predetermined fixed value" as recite in claim 3, for example.

Thus, it is respectfully submitted that claim 3 patentably distinguishes over Ford. Further, claims 8 and 11 patentably distinguish over Ford for reasons similar to those discussed above.

The Office Action, on page 3, rejected claims 4, 5, 9 and 10 under 35 U.S.C. § 103(a) as being obvious over Ford in view of U.S. Patent No. 6,304,347 (Beine).

As discussed above, Ford is related to an automatic level control circuit for optical system where feedback instabilities are eliminated by restricting operation to a single amplifier node at a time (see Ford, Abstract). Beine is related to an optical power management for managing signal power levels in an optical network (see Beine, Abstract).

However, claims 4, 5, 9 and 10 have been amended to recite similar features as amended claim 3. Therefore, it is respectfully submitted that amended claims 4, 5, 9 and 10 patentably distinguish over Ford for reasons similar to those discussed above. Further, nothing was cited or found in Beine that cures the deficiencies of Ford, as set forth above. Therefore, it is respectfully submitted that claims 4, 5, 9 and 10 patentably distinguish over the combination of Beine and Ford.

Accordingly, Applicants respectfully requests withdrawal of all rejections.

#### **NEW CLAIM**

New claim 12 has been added to emphasize setting an attenuation amount of a variable attenuator to a predetermined fixed value when a corresponding optical signal is determined to be disconnected based on a detected disconnect fault using a threshold. It is respectfully submitted that the prior arts fail to teach or suggest the aforementioned features of claim 12. Therefore, it is respectfully submitted that claim 12 patentably distinguishes over the prior arts.

#### **CONCLUSION**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. Further, all pending claims patentably distinguish over the prior art. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.


Serial No. 10/078,488

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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